

Amendments to the Drawings:

Replacement sheets are hereby submitted for Figs. 1-9.

Remarks

Reconsideration of the present patent application, in view of the amendments above and the remarks directed thereto, is respectfully requested.

The Examiner objected to informalities in the Abstract; the applicant has amended the Abstract accordingly.

Substantively, of previous pending claims 1-31, all were rejected. Claims 5, 11, 13, and 28 were objected to for minor informalities. Claims 5, 11, 13 and 28 were accordingly amended. With respect to the first appearance in claim 28 of the phrase, “may be,” the applicant believes that the phrase is appropriate at that point in the claim since a determination is being made and the phrase reflects that state of indecision. The phrase at lines 10 and 14-15 has been canceled. Claim 28 was additionally amended for a better and clearer reading of the claimed invention, e.g., on lines 7, 12 and 15.

Claims 5-6, 10, 19-27 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Accordingly, the applicant has canceled the offending word, “substantially,” from claims 5, 10, 19 and 24. The applicant is uncertain as to what the Examiner finds lacking in how a segment “starts,” in claims 19 and 24. As amended, claims 19 and 24 have “...determining the alternate path segment to start at the start node and end at the destination node, wherein the alternative path segment...” Further explanation is requested if the Examiner finds the current language unsatisfactory.

Replacement sheets are hereby submitted for Figs. 1-9. Figs. 1 and 2 have been amended, adding –Prior Art—to each drawing.

Substantively, claims 1-30 were rejected under 35 U.S.C. §102(b) as being anticipated over the Admitted Prior Art in Figs. 1-2 (hereinafter APA). Claims 10, 17, and 31 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. The applicant addresses the rejection of his claims with respect to independent claims 1, 11, 19, 24 and 28.

In rejecting applicant's claims 1, 11, 19, 24, the Examiner reasoned:

...the APA discloses a primary circuit path (Fig 2, path 204) from the first node (Fig 2, element 102a) to the second node (Fig 2, 102d), the primary circuit path includes a first protected link (Fig 2, link 106a) selected from the plurality of elements (nodes A-H) the primary circuit path is arranged to include at least one protected link in a protectable segment of the primary circuit path (page 3, lines 16-22)

An alternate circuit path (Fig 2, path 208) from the first node to the second node wherein the alternate circuit path protects at least the protectable segment of the primary circuit path (page 3, lines 16-22)

The applicant begs to differ with the Examiner and points out the "second set of computer-executable instructions" of claim 1 allow the alternate circuit path to bypass the "protectable segment of the primary circuit path." Hence the language of the claim allows the alternate circuit path to be the link 106i, as explained in the specification, page 8, line 23 to page 10, line 30 and associated Fig. 3, compared to the specification text, page 3, line 1 to page 4, line 24, associated with Figs. 1 and 2. Thus the language of the claim can lead to a markedly different result from the described prior art.

Likewise, independent claim 11 recites, "...creating the alternate path includes creating the alternate path from the start node to the end node, the alternate path arranged to protect at least the protectable segment which includes the first line-protected link." Hence the alternate circuit path can be the link 106i in Fig. 2 and illustrated in Fig. 3 as link 306i.

Independent claim 19 has the step of "determining the alternate path segment to start at the start node and end at the destination node, wherein the alternate path segment is arranged to protect the primary path segment that includes the at least one line-protected link." Again, the alternate path segment can be the unprotected link 106i of Fig. 2.

Similarly, independent claim 24 has "a second set of computer-executable instructions determining the alternate path segment to start at the start node and end at the destination node, wherein the alternate path segment is arranged to protect the primary path segment that includes the at least one line-protected link." Using the elements of Figs. 1-3 as parts of a larger network and circuit segments, primary and alternate, as parts of larger (or longer) circuit paths, the previously described primary circuit path formed by protected links 106a,b and the unprotected link 106c is, in effect "the protectable segment of the primary circuit path," and the previously

described alternate circuit path, i.e., link 106i, is a part of the “alternate circuit path segment to start at the start node and end at the destination node,” of claim 24.

In rejecting claim 28, the Examiner added the following comments:

...the APA discloses a first set of computer-executable instructions to enable a determination to be made regarding whether at least one protected link selected from the plurality of elements includes a protectable segment of a primary path (page 3, lines 16-22)

A second set of computer-executable instructions arranged to create a primary circuit path from the first node to the second node (see primary path 204 from node 102a to node 102d in Fig 2) which includes at least one protected link when it is determined that at least one protected link is included in the protectable segment of the primary path, wherein the second set of computer-executable instructions is arranged to include at least one protected link in the protectable segment of the primary circuit path (page 3, lines 11-18)

A third set of computer-executable instructions arranged to create an alternate circuit path from the first node to second node when it is determined that at least one protected link (see alternative path 208 of Fig 2) is included in the protectable segment of the primary path, wherein the alternate circuit path is arranged to protect at least the protectable segment of the primary circuit path (page 3, lines 16-18)

Once again the language of the claim implies that the link 106i should be part of an “alternate circuit path from the first node to the second node,” and not path 208 in Fig. 2. While the language of the claim does not necessarily exclude path 208 as an alternate circuit path, link 106i is a much better candidate. Link 106i, of course, cannot be an alternate circuit path according to the description in the specification, page 3, line 1 to page 4, line 16.

Hence the APA described in applicant's specification, page 3, line 1 to page 4, line 16, does not anticipate independent claims 1, 11, 19, 24 and 28, which should all be allowed. Claims 2-10, 12-18, 20-23, 25-27 and 29-31 should also be allowable for at least being dependent upon their respective allowable base claims.

In view of the amendments above and the remarks directed thereto, the applicant believes all claims now pending in this application are in condition for allowance. The applicant respectfully requests that the rejections be withdrawn, that claims 1-31 be allowed and the case be passed to issue. If a telephone conference would expedite prosecution of this application in any way, the Examiner is asked to call the undersigned at (408) 868-4088.

Respectfully submitted,

Aka Chan LLP

/Gary T. Aka/

Gary T. Aka

Reg. No. 29,038

Aka Chan LLP

900 Lafayette Street, Suite 710

Santa Clara, CA 95050

Tel: (408) 868-4088

Fax: (408) 608-1599

E-mail: gary@akachanlaw.com